

Equal Employment Rights of Urban Women: A Research from the Gender Perspective

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Abstract

This article analyzes the difference of awareness and experience of gender discrimination in employment between male and female. The data used here comes from The Third Wave Survey on the Social Status of Women in China which is induced by All-women's Federation of China and National Bureau of Statistics of China. Awareness and experience of gender discrimination in employment from different ages, educational background and marital status are the main lines analyzed here by using cross table. Result and conclusion of it are: Over 72% of women are fully aware that "an employer's act of refusing to employ or promote women because of their gender" constitutes discrimination. Over 5% of urban women have been denied employment or promotion opportunity because of their gender and over 2% of urban women have been dismissed on ground of marriage/pregnancy/childbirth. Marriage and childbirth can lower women's level of awareness of gender discrimination in employment. Gender, age, level of education, marriage and childbirth status all have important impact on the awareness and experience of gender discrimination in employment both in the form of "denial of employment or promotion opportunity because of gender" and in the form of "dismissal on ground of marriage/pregnancy/childbirth".

Keywords

Urban Women; Equal Employment Rights; Gender Discrimination in Employment; Empirical Study; Differences in Comparison

Introduction

The question of whether women can enjoy equal rights in employment has a direct bearing on the realization of women's labor rights and interests as well as on the survival and development of women (Liu, 2007). Discrimination in employment is a major obstacle to prevent women from equal access to employment opportunity and from their career development whereas equal employment is the precondition for the promotion of women's development and the improvement of women's social status (Guo, 2009). With the development of social economy, great

changes have taken place in employment environment. This article, based on the data collected in The Third Wave Survey on the Social Status of Women in China which is induced by All-women's Federation of China and National Bureau of Statistics of China, aims to answer such questions as what the level of employment equality had been realized in urban women and whether there were gender and age differences in the awareness and experience of gender discrimination in employment during the first decade of the 21st century.

Literature Review

Equal employment rights refers to the rights of workers to share equal employment opportunities. Namely, all workers should be treated equally in terms of employment opportunity without distinction as to gender, age, race or other biological differences between people (Deng & Li, 2007).

In order to safeguard women's employment rights, Chinese government has promulgated many laws and regulations, including the Constitution, Law of People Republic of China on the Protection of Rights and Interests of Women. Special Provisions on Labor Protection for Female Employees, and Regulations on Employment Services and Management. With the exception of the Constitution, all the above-mentioned laws and regulations contain special provisions on equal employment rights, including the rights to gender equality and the freedom of marriage and childbirth, thereby providing legal safeguards for women's employment rights and interests.

The Convention concerning Discrimination in Respect of Employment and Occupation or Discrimination (Employment and Occupation) Convention (ILO Convention No.111) is an International Labor Organization Convention on anti-discrimination. The convention requires states to enable legislation which prohibits all discrimination and exclusion on any basis

including of race, color, sex, religion, political opinion, national or social origin in employment and repeal legislation that is not based on equal opportunities (Wikipedia, 2012).

The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), adopted in 1979 by the UN General Assembly, is often described as an international bill of rights for women. The Convention defines discrimination against women as "...any distinction, exclusion or restriction made on the basis of gender which has the effect or purpose on impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field." (Division for the advancement of women department of economic and social affairs).

Using statistics data from 1920 to 1970 in the U.S. which showed the rise of percentage of women in the labor force, the increase of the number of female jobseekers in the labor market, and the growth of the number of two-earner families, Guo (2011) demonstrates the important role played by the 1964 Civil Rights Act in safeguarding women's rights to equal employment in the U.S. Other developed countries have also adopted concrete provisions and established special bodies for the protection of women's rights to equal employment: the United Kingdom has established the Equal Opportunities Commission under the 1975 Sex Discrimination Act; the French Law on Equal Employment Opportunity for Men and Women provides that employers who practice gender discrimination in employment are to be punished by fine or imprisonment; both Norway and Sweden have established gender equality board and the Gender Equality Ombudsman system to investigate and punish violations of laws against gender discrimination; and the laws of Germany, Japan and other countries have also provided for employers' legal liabilities for gender discrimination (Shan, 2009).

The research by Chinese scholars on women's equal employment rights is mainly focused on theoretical discussion, causal analysis and suggestions on countermeasures. Some scholars define gender discrimination in employment as deliberate acts of unjustifiable differential treatment between workers made on the basis of gender by the employer in the process of employment, which are against the

principle of equality and have the effect on impairing or nullifying the equal employment opportunity of workers; Zhang (2006) pointed out that fewer research has been done by Chinese scholars on theories relating to the violation of workers' rights to equal employment; Hao (2012) puts forward the principles of equality, proportionality and lawfulness for the restriction of equal employment rights; Guo (2009) holds that under the market economy, women while making important contribution to the continuity of human society, are suffering gender discrimination in employment because of their childbirth function; some other scholars maintain that it is the distortion and dismemberment of the equal employment rights that leads to serious violations of the women employment rights of ethnic minorities and in-depth discussions have been carried out to discuss the harmful effects the policy of different retirement ages for men and women made on women's equal employment rights (Ding, 2004).

With respect to the safeguarding of women's rights to equal employment, the following measures have been suggested: preferential measures such as tax reduction and exemption should be adopted so as to solve the problem of cost increase incurred by hiring female workers for employers, thereby encouraging the employment of women on employers' side; the existing laws and regulations on the rights to equal employment should be revised and further improved so as to establish new forms of punishment and strengthen the legal responsibilities of employers for acts of gender discrimination; supervisory bodies on gender discrimination in employment should make every effort to raise women's consciousness of rights protection and provide reasonable and effective remedies to the victims of discrimination; administrative departments of labor security should strengthen the supervision and inspection on the implementation of women's rights to equal employment, rectify the discriminatory behaviors of employers, and supervise them to pay compensation to female victims for their lost caused by discrimination (Liu, 2007).

The above literature review reveals two main shortcomings in the current research on equal employment rights in China: the lack of quantitative research based on large-scale investigation and the lack of research on the gender and age differences in the awareness and experience of equal employment rights. This article, based on the existing Chinese laws and regulations on the protection of women's rights to

equal employment and taking educational level and marital and childbirth status as the two main threads, carries out comparative studies on the realization of equal employment rights of men and women from different age groups in urban areas and, on the basis of the description of the current situation, explores the gender and age differences in the awareness and experience of this rights.

Current Situation of Realization of Equal Employment in China

Awareness of Gender Discrimination in Employment

The younger and higher educational level one is, the higher level of discrimination awareness he possesses. Over 72% of women are fully aware that “an employer’s act of refusing to employ or promote women because of their gender” constitutes discrimination. Not only is the general awareness of discrimination among women 1.5% higher than that among men, but the women’s awareness is higher than men’s in every age group or at every educational level also. Nearly three fourths of women born in the 1980s believe that “an employer’s refusal to employ or promote women because of their gender” constitutes discrimination, 3% higher than those who born in the 1950s and 1960s or that among men in the same age group (See TABLE 1).

In the aspect of discrimination in the form of “dismissal on ground of marriage/pregnancy/childbirth”, the awareness among urban women born in the 1970s is higher than that among men in the same age group while the awareness is almost the same among men and women in other age groups. In the aspect of discrimination in the forms of “refusal to employ or promote women because of their gender” and “dismissal on ground of marriage/pregnancy/childbirth”, the awareness among women born in the 1980s and with higher education is 14% (in other words, female with junior high school education is 65.62%, and female with college or above education is 79.66%. See TABLE 1) and 12% (in other words, female with junior high school education is 68.13%, and female with college or above education is 80.91%. See TABLE 2), respectively, which is higher than that of woman also born in the 1980s but with only junior high school education. There is the same difference among woman in other age groups, although the

difference is not as big as that among women born in the 1980s. Besides, both awareness of the above-mentioned two forms of discrimination among women with senior high school or technical secondary school education is higher than that among men.

TABLE 1 THE AWARENESS “REFUSING TO EMPLOY OR PROMOTE WOMEN BECAUSE OF THEIR GENDER” OF GENDER DISCRIMINATION IN EMPLOYMENT

		Born in				
		1980s	1970s	1960s	1950s	Total
Junior high education	Male	69.06	65.12	66.71	68.90	67.21
	Female	65.62	68.27	68.84	69.87	68.64
Senior high school or technical secondary school education	Male	70.61	70.14	70.44	73.28	71.04
	Female	72.64	73.77	71.66	73.52	72.8
College and more	Male	74.93	75.81	77.99	77.50	76.38
	Female	79.66	81.04	77.59	78.65	79.67
Total	Male	72.28	70.46	70.82	71.60	71.13
	Female	74.20	73.58	71.26	71.60	72.56

Source: The Third Wave Survey on the Social Status of Women in China.

Marriage and childbirth can reduce women’s awareness of gender discrimination in employment. The awareness of discrimination in the form of “refusal to employ or promote women because of their gender” is higher among unmarried women (which is 76.97% of female) than that among married women with no child (which is 74.42% of female), which is in turn higher than that among women with one child, which is again higher than that among women with more than one child (see TABLE 3). Namely, the more children a woman has the lower awareness of discrimination she has. The awareness of discrimination in the form of “dismissal on ground of marriage/pregnancy/childbirth” decreases rapidly, and the gender gap in awareness widens, with the increase of the number of children a woman has. This phenomena perhaps relates to factors such as age and educational level.

TABLE 2 THE EXPERIENCE OF “BE DISMISSED ON GROUND OF MARRIAGE/PREGNANCY/CHILDBIRTH” OF GENDER DISCRIMINATION IN EMPLOYMENT

		Born in				
		1980s	1970s	1960s	1950s	Total
Junior high school education	Male	70.99	69.41	71.88	75.71	72.34
	Female	68.13	71.08	71.89	74.98	72.15
Senior high school or technical secondary school education	Male	72.12	74.44	74.63	77.19	74.79
	Female	74.06	75.76	74.00	77.45	75.20
College or above education	Male	79.58	80.33	81.78	82.50	80.78
	Female	80.91	81.10	78.99	81.87	80.64
Total	Male	75.36	74.83	75.31	77.21	75.61
	Female	75.82	75.36	73.80	76.23	75.12

Source: The Third Wave Survey on the Social Status of Women in China.

TABLE 3 THE AWARENESS OF GENDER DISCRIMINATION IN EMPLOYMENT BY MARRIAGE STATUS (%)

	“Refused to be employed or promoted because of gender”		“Be dismissed on ground of marriage/pregnancy/childbirth”	
	Male	Female	Male	Female
Unmarried	72.03	76.97	73.90	77.59
With no child	72.01	74.42	76.99	75.71
With only one child	72.26	74.15	76.88	76.63
With more than one children	67.56	67.13	72.71	70.53
Total	71.14	72.57	75.62	75.11

Source: The Third Wave Survey on the Social Status of Women in China.

Experience in Gender Discrimination in Employment

Over 5% of urban women have been denied employment or promotion opportunity because of their gender and over 2% of urban women have been dismissed on ground of marriage/pregnancy/childbirth. Although these percentages seem small, by projecting the whole country, the numbers of urban women who have been suffered above-mentioned two forms of discrimination may reach 7.43 million and 3.12 million, respectively. Therefore, sufficient attention should be paid to the seriousness of this problem. An analysis of the relevant data from the perspectives of age and gender shows that the younger the member of the same age group is the higher likelihood of them being denied employment or promotion opportunity is because of gender and also the greater the gender gap in this respect. Over 6% of women born in the 1980s have encountered this form of discrimination, twice of the women born in the 1950s and 2.4 times of the men in the same age group. With the rise of educational level, the percentage of women being denied employment or promotion

opportunity because of their gender rises rapidly, while the percentage of men suffering from the same discrimination rises first and then falls with the rise of educational level. In other words, higher education reduces gender discrimination in employment to men but intensifies the same discrimination to women: there is one in every 15 women born in the 1980s used to be denied employment or promotion opportunity because of her gender. This is especially bad for the career development of highly educated women born in the 1980s and further exacerbate the grim employment situation faced by female college students.

Statistics on the experience of being denied employment or promotion opportunity because of gender among women in different marital and childbirth status shows that the fewer children a woman has, the more likely she is to encounter such discrimination. The unmarried women most likely encounter such discrimination. The percent of it is 7.90 as shown in FIG.1. Such statistics reflect the characteristics of two totally different times and

economic systems: women who have more than one child and now being mostly in their 50s are the group least likely to encounter discrimination in employment. This is because when they first entered into the job market, China was still under the planned economic system which encouraged the employment of women; unmarried women or married women who have not yet had any child born in the 1980s. They are the group most likely to encounter discrimination because under the current grim employment situation and the market economic system with gender discrimination in employment, employers, in their pursuit of profit maximization, often refuse to hire women because female employees' childbirth increases labor cost.

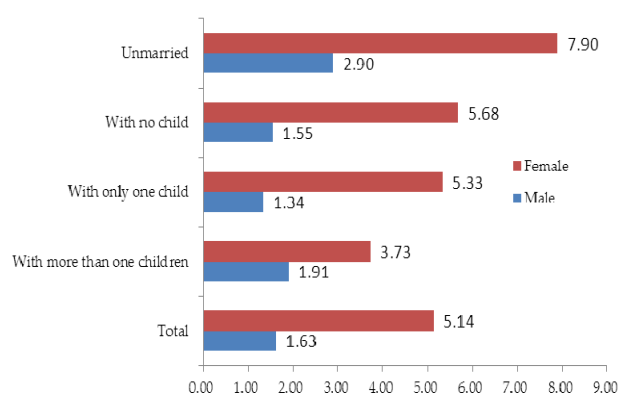


FIG. 1 THE EXPERIENCE OF "REFUSED TO BE EMPLOYED OR PROMOTED BECAUSE OF GENDER" BY MARRIAGE STATUS (%)

Source: The Third Wave Survey on the Social Status of Women in China.

There are age and gender differences in the experience of "dismissal on ground of marriage/pregnancy/childbirth". Among those who have been dismissed on ground of marriage/pregnancy/childbirth, the percentage of women is always higher than men in all age groups and the women born in the 1980s got the highest whereas those born in the 1970s got the biggest gender gap. As far as educational level is concerned, the percentage of women with primary education who have been dismissed on ground of marriage/pregnancy/childbirth is 2.6 times that among men with the same education, which is the biggest gender gap among employees with different educational backgrounds; although the percentage is the lowest among women with higher education, one in every 36 women with higher education who were born in the 1980s has been dismissed on ground of marriage/pregnancy/childbirth, which is 9.2 times that among women with the same education but were born in the 1950s, and 1.6 times that among men with the same education. Therefore, to prevent women from

dismissal on the ground of marriage/pregnancy/childbirth is important to the protection of equal employment rights of all women, regardless of their educational level.

The more children a woman has, the more likely she is dismissed on ground of marriage/pregnancy/childbirth. In FIG. 2, the percentage of those dismissed on ground of marriage/pregnancy/childbirth among women with more than one child is 1.1 times (2.32 VS. 2.12) that among women with only one child and 1.6 times that among women with no child (2.32 VS. 1.42). As for women who are over 50 years old and have more than one child, when they first entered into the job market, China was still under the planned economy and therefore they did not encounter gender discrimination in employment. However, with the implementation of the market economic system, the strict enforcement of the family planning policy and the deterioration of employment situation, more and more women with more than one child have been dismissed because of their violation of one-child policy or increasing the labor cost of the employer. Besides, about 1.4% of women who have not given birth to child have been dismissed because of marriage or pregnancy. This is a serious violation not only of women's freedom of marriage and reproduction, but also of women's equal employment rights and rights to maternity security. As a result, currently many white-collar women are facing with the dilemma of not daring to marry or having child when they reach the marriageable or childbearing age, or having to choose between child and job. Despite the adoption of numerous laws and regulations on the protection of women's equal employment rights, the negative impact of childbirth on women's equal employment rights has still not been contained.

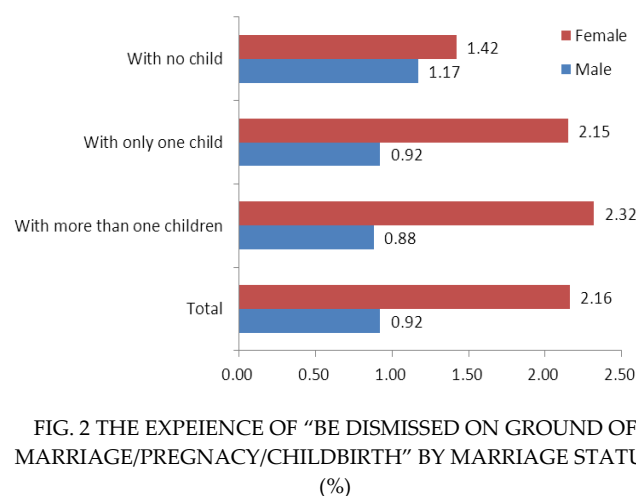


FIG. 2 THE EXPERIENCE OF "BE DISMISSED ON GROUND OF MARRIAGE/PREGNACY/CHILDBIRTH" BY MARRIAGE STATUS (%)

Source: The Third Wave Survey on the Social Status of Women in China.

To sum up, gender, age, educational level, marital and childbirth status all have important impact on the awareness and experience of gender discrimination in employment both in the form of “denial of employment or promotion opportunity because of gender” and in the form of “dismissal on ground of marriage/pregnancy/childbirth”.

Conclusion and Suggestion

Conclusion

The younger and higher educational level one is, the higher level of discrimination awareness he possesses.. Over 72% of women are fully aware that “an employer’s act of refusing to employ or promote women because of their gender” constitutes discrimination. Marriage and childbirth can lower women’s level of gender discrimination awareness in employment. Over 5% of urban women used to be denied employment or promotion opportunity because of their gender and over 2% of urban women used to be dismissed on ground of marriage/pregnancy/childbirth. The numbers of urban women in the whole country who used to suffer the above-mentioned two forms of discrimination reach 7.43 million and 3.12 million, that is to say, more than 10 million urban women used to be or have been denied employment or promotion opportunity.

Suggestion

Based on the fact of gender discrimination in employment, some measures should be taken to assure the implementation of equal employment rights. First of all, women’s awareness of equal employment rights should be raised. In light of the fact that the average educational level of Chinese women is still relatively low and near one third of urban women lacks awareness of violation of equal employment rights, the author of this article suggests that the government should strengthen the relevant education and training as well as the dissemination of the knowledge of the relevant laws and regulations, so as to raise women’s awareness of their equal employment rights.

Secondly, the participation in rights protection by trade unions, communist youth leagues and women’s federations should be encouraged. While actively promoting the adoption of the Law against Discrimination in Employment, the government should be strengthen the participation of trade unions, communist youth leagues and women’s federations in

rights protection. It should be strengthen the cooperation among these organizations and be given full play to the roles of women’s federations as the “warm homes for women”, of trade unions as “employees’ homes” and of communist youth leagues as “the unites of the youth”, so as to enable them to actively cooperate with human resource and social security departments and make their due contributions to the safeguard of the equal employment rights of young female employees.

Thirdly, the Law against Discrimination in Employment should be adopted as soon as possible . China should adopt as soon as possible an operable Law against Discrimination in Employment, which should give a clear definition of discrimination, establish sound criteria for the determination of gender discrimination acts for the concrete legal responsibilities of employers for the violation of the Law, clarify the functions of relevant government departments of supervising and regulating employers’ behavior in the labor market, and strengthen the punishments for violations of rights.

Last but not least, a special anti-discrimination body should be established. Countries with relatively complete system of law against discrimination in employment all have established special anti-discrimination bodies, which is playing an important role in prohibiting discrimination in employment and protecting the rights to equal employment. China should learn from the experiences of such countries as the UK, the US, Norway, and Sweden to establish a special anti-discrimination body, similar to the Equal Opportunities Commission or the Gender Equality Board, to be responsible for accepting, mediating and deciding on complaints against gender discrimination, and for bringing the relevant cases to the court on behalf of women.

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